

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3072 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.G.BALAKRISHNAN

and

MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
 2. To be referred to the Reporter or not? No
 3. Whether Their Lordships wish to see the fair copy of the judgement? No
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
 5. Whether it is to be circulated to the Civil Judge? No
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SIRAJUDDIN MOHMAD DAKHLI

Versus

UNION OF INDIA

Appearance:

MR NM KAPADIA for Petitioner

MR JAYANT PATEL for Respondent No. 1

MR MA BUKHARI, A.G.P. for respondents no.2 & 3

CORAM : MR.JUSTICE K.G.BALAKRISHNAN and

MR.JUSTICE J.M.PANCHAL

Date of decision: 05/05/98

ORAL JUDGEMENT

(Per : Balakrishnan,J.)

Rule. Mr. Jayant Patel, learned Standing Counsel waives service of rule on behalf of respondent no.1. Mr. M.A.Bukhari, learned A.G.P. waives service of rule on behalf of respondents no.2 & 3.

At the request of learned Counsel appearing for the parties, the petition is heard today.

The petitioner contends that he is an Indian by birth and his parents are Indian origin. He took his primary education at Madre-sa-e-Ahmedia and secondary education at MMP High School at Rander, Surat. He acquired Indian Passport on 6.8.1964 and went to Pakistan where he stayed for some period and he could not come back, as during that period war broke out between India and Pakistan and the petitioner stayed in Pakistan for some days. Later on he obtained Pakistani Passport and left Pakistan and went to Kuwait and from there, he returned India. The petitioner submits that his wife and children are staying in India and his wife is suffering from cancer. The petitioner has filed an application under section 6(1) of the Citizenship Act, 1955 for naturalisation and the same is pending before 1st respondent. It is further stated that the respondents are taking coercive steps to deport the petitioner. The petitioner has prayed that he may be allowed to stay in India, till the application under section 6(1) of the Citizenship Act is decided by the Authority.

We have heard the petitioner's Counsel and the learned Counsel appearing for the respondents. Mr. Jayant Patel, learned Standing Counsel for Union of India submitted that the petitioner is a foreign citizen and the moment he acquires Pakistani Passport, he ceased to be Indian citizen and, therefore, he shall not be allowed to stay in India. But, having regard to the fact that his application filed under section 6(1) of the Citizenship Act is pending, we incline to allow the petitioner to stay in India till the decision is taken by the 1st respondent on the application, however, on certain conditions.

The petitioner shall not leave India without previous permission of the 3rd respondent - Commissioner of Police, Surat City. He shall not change his place of residence. The petitioner shall report before the Police Inspector, Rander Police Station, Surat City once in a month. He shall not indulge into any anti-social activity.

The application filed by the petitioner shall be

disposed of within a period of three months from this date. Till then, the petitioner shall not be deported and he may be allowed to stay in India subject to the above conditions.

Subject to the foregoing directions, rule is made absolute to the extent indicated hereinabove. No order as to costs.

patel